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NOTICE OF ALLOWANCE AND FEE(S) DUE

2292 7590 11/09/2010

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

WILLIS, DOUGLAS M

ART UNIT

PAPER NUMBER

1624

DATE MAILED: 11/09/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,326

08/23/2006

Jordi Tormo i Blasco

5000-0193PUS1

8108

TITLE OF INVENTION: 5,6-DIALKYL-7-AMINOTRIAZOLOPYRIMIDINES, THEIR PREPARATION AND THEIR USE FOR CONTROLLING HARMFUL FUNGI, AND COMPOSITIONS COMPRISING THESE COMPOUNDS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	02/09/2011

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

2292 7590 11/09/2010
**BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747**

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,326	08/23/2006	Jordi Tormo i Blasco	5000-0193PUS1	8108

TITLE OF INVENTION: 5,6-DIALKYL-7-AMINOTRIAZOLOPYRIMIDINES, THEIR PREPARATION AND THEIR USE FOR CONTROLLING HARMFUL FUNGI, AND COMPOSITIONS COMPRISING THESE COMPOUNDS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	02/09/2011

EXAMINER	ART UNIT	CLASS-SUBCLASS
WILLIS, DOUGLAS M	1624	514-259310

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



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10/590,326	08/23/2006	Jordi Tormo i Blasco	5000-0193PUS1	8108
2292	7590	11/09/2010	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			WILLIS, DOUGLAS M	
			ART UNIT	PAPER NUMBER
			1624	
DATE MAILED: 11/09/2010				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 592 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 592 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/590,326

Examiner

DOUGLAS M. WILLIS

Applicant(s)

I BLASCO ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08-04-10.
2. ☒ The allowed claim(s) is/are 1,6,8-11,13,14 and 16.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>08-23-06</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

/DOUGLAS M WILLIS/
Examiner, Art Unit 1624

DETAILED ACTION

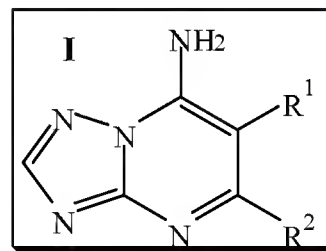
Status of the Claims / Priority

Claims 1, 6 and 8-16 are pending in the current application. According to the *Amendments to the Claims*, filed August 4, 2010, claims 1 and 9 were amended and claims 2-5 and 7 were cancelled. This application is a 35 U.S.C. § 371 National Stage Filing of International Application No. PCT/EP2005/002424, filed March 8, 2005, which claims priority under 35 U.S.C. § 119(a-d) to: a) DE 102004012021.8, filed March 10, 2004; and b) DE 102004012019.6, filed March 10, 2004.

Status of Restrictions / Election of Species

Applicant's affirmation of the following election, with traverse, in the reply filed on February 16, 2010, is acknowledged:
Group I - claims 1, 6, 8, 9 and 14.

The requirement was made FINAL in the *Non-Final Rejection*, mailed on November 13, 2009.



Claim 1 is directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claims 10, 11, 13 and 16, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Claims 12 and 15, directed to the inventions of Groups IV and VI, drawn to a compound of the formula IV or V and a seed comprising a compound of the formula I, respectively, do not require all the limitations of an allowable product claim, and have **NOT** been rejoined.

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Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, the restriction requirement between Groups I and Groups II, III, V and VII, as set forth in the Office action, mailed on June 9, 2009, is hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicants are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. § 121 are no longer applicable. {See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971); and MPEP § 804.01}.

Where a reply to a final action has otherwise placed the application in condition for allowance, the failure to cancel claims drawn to the nonelected inventions ineligible for rejoinder or to take appropriate action will be construed as authorization to cancel these claims by examiner's amendment and pass the application to issue after the expiration of the period for reply. See MPEP § 821.01.

The sections of U.S.C. Title 35 that formed the basis of prior rejections formulated, as well as any references supporting said rejections, that are not included with this Office action, may be found in either the *Non-Final Rejection*, mailed on November 13, 2009, or the *Final Rejection*, mailed on May 4, 2010. Furthermore, any rejections and/or objections of record not explicitly addressed herein below, are hereby withdrawn, in light of applicant's arguments and/or the *Amendments to the Claims*, filed August 4, 2010.

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Thus, a third Office action and prosecution on the merits of claims 1, 6, 8-11, 13, 14 and 16 is contained within.

Reasons for Allowance

Claims 1, 6, 8-11, 13, 14 and 16 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art is silent with respect to substituted [1,2,4]triazolo[1,5-*a*]pyrimidines of the formula I, as recited in claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled *Comments on Statement of Reasons for Allowance*.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The following is a statement of examiner's amendment to the record:

In claim 1, the following text:

R^a is halogen, cyano, nitro, hydroxyl, C₁-C₆-alkylthio, C₃-C₁₂-alkenyloxy, C₃-C₁₂-alkynyloxy, R^b is C₁-C₄-alkyl, cyano, nitro, hydroxyl, C₁-C₆-alkoxy, C₁-C₆-alkylthio, C₃-C₆-alkenyloxy and C₃-C₆-alkynyloxy;
where the carbon chains of **the groups R^a for their part** may be halogenated;
R² is C₁-C₁₂-alkyl, C₂-C₁₂-alkenyl or C₂-C₁₂-alkynyl, where the carbon chains are substituted by one to three groups R^c;

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R^c is cyano, nitro, hydroxyl; or C₃-C₆-cycloalkyl which may carry one to four identical or different groups C₁-C₄-alkyl, halogen, cyano, nitro, hydroxyl, C₁-C₆-alkoxy, C₁-C₆-alkylthio, C₃-C₆-alkenyloxy or C₃-C₆-alkynyloxy.

has been deleted and replaced with the following:

---“R^a is halogen, cyano, nitro, hydroxy, C₁-C₆-alkylthio, C₃-C₁₂-alkenyloxy, C₃-C₁₂-alkynyloxy; R^b is C₁-C₄-alkyl, cyano, nitro, hydroxy, C₁-C₆-alkoxy, C₁-C₆-alkylthio, C₃-C₆-alkenyloxy and C₃-C₆-alkynyloxy; and where the carbon chains of R^a may be halogenated; R² is C₁-C₁₂-alkyl, C₂-C₁₂-alkenyl or C₂-C₁₂-alkynyl, where the carbon chains are substituted by one to three groups R^c; R^e is cyano, nitro, hydroxy or C₃-C₆-cycloalkyl which may carry one to four identical or different groups C₁-C₄-alkyl, halogen, cyano, nitro, hydroxy, C₁-C₆-alkoxy, C₁-C₆-alkylthio, C₃-C₆-alkenyloxy or C₃-C₆-alkynyloxy.”---

In claim 9, the entire text:

The compound of the formula I according to claim 1:
5-ethyl-6-hex-5-enyl-[1,2,4]triazolo[1,5-a]pyrimidin-7-ylamine;
6-hex-5-enyl-5-methyl-[1,2,4]triazolo[1,5-a]pyrimidin-7-ylamine;
5-methyl-6-(5,6,6-trifluorohex-5-enyl)-[1,2,4]triazolo[1,5-a]pyrimidin-7-ylamine.

has been deleted and replaced with the following:

---“The compound of the formula I according to claim 1 **which is selected from the group consisting of:**
5-ethyl-6-hex-5-enyl-[1,2,4]triazolo[1,5-a]pyrimidin-7-ylamine;
6-hex-5-enyl-5-methyl-[1,2,4]triazolo[1,5-a]pyrimidin-7-ylamine; **and**
5-methyl-6-(5,6,6-trifluorohex-5-enyl)-[1,2,4]triazolo[1,5-a]pyrimidin-7-ylamine.”---

In claim 16, the entire text:

A method for controlling phytopathogenic harmful fungi wherein the fungi **or the materials, plants, the soil or seed to be protected against fungal attack** are **treated** with an effective amount of a compound of the formula I according to claim 1.

has been deleted and replaced with the following:

---“A method for controlling phytopathogenic harmful fungi wherein the fungi are contacted with an effective amount of a compound of the formula I according to claim 1.”---

Claims 12 and 15 have been cancelled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS M. WILLIS, whose telephone number is 571-270-5757. The examiner can normally be reached on Monday thru Thursday from 8:00-6:00 EST. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson, can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOUGLAS M WILLIS/
Examiner, Art Unit 1624

/James O. Wilson/
Supervisory Patent Examiner, Art Unit 1624